IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 3359 of 2007(Y)

PETITIONER:

JULIE JOSE VADAKKAN,
VADAKKAN HOUSE, NEAR NHS,
MUVATTUPUZHA.

BY ADV. SMT.TULASI PANICKER

RESPONDENTS:

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1. THE ASSISTANT EDUCATIONAL OFFICER,
KOOTHAMANGALAM.

2. THE HEADMISTRESS,
FATHIMA MATHA U,P.SCHOOL,
MALIPPARA.

3. THE CORPORATE MANAGER,
CORPORATE EDUCATIONAL AGENCY,
DIOCESE OF KOTHAMANGALAM,
KOTHAMANGALAM.

BY GOVERNMENT PLEADER SRI.T.T.MUHAMOOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP.3359/2007)

EXT.P1: TRUE COPY OF APPOINTMENT ORDER DT. 17/4/2004 ALONG WITH ORDER DT. 9/3/2006 , OF R1.

EXT.P2: TRUE COPY OF GOVT.ORDER DT. 15/6/2004.

EXT.P3: TRUE COOPY OF JUDGMENT DT. 12/10/2006.

EXT.P4: TRUE COPY FO LETTER DT. 12/1/2007 ISSUED BY R1 TO PETR.

A.K. Basheer, J.

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W.P(C) No. 3359 of 2007

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Dated this the 12th day of July, 2007.

J U D G M E N T

Petitioner claims that she was appointed as an Upper Primary School Assistant in Fathima Matha Upper Primary School, Malippara in a leave vacancy for the period from July 14, 2004 to September 30, 2004. The appointment was approved by respondent No.1 as one on daily wage basis. The said order was passed by respondent No.1 in the light of Ext.P2 order issued by the General Education Department on June 15, 2004. It is contended by the petitioner that her appointment was liable to be approved on a regular basis, particularly in view of Rule 7(A)(3) of Chapter XIV-A KER. However it appears that respondent No.1 had relied on Ext.P2 order of the Govt. in which it was directed that the claim for re-appointment under under Rule 51A of the KER will be limited to those who have been appointed against regular/leave vacancies having a duration of not less than the academic year and that vacancies having duration of less than one academic year will be filled up only on daily wage basis.

2. In W.P.No.31924/05 an identical issue had come up for consideration before this Court. This Court took the view that Ext.P2 Govt. Order will not have any impact on clause 3 of Rule 7A of Chapter XIV-A KER as it stood prior to the amendment. Admittedly the appointment of the petitioner was prior to the amendment. Therefore there is considerable force in the contention raised by the petitioner that Ext.P1 order passed by respondent No.1

to the extent it gives approval on daily wage basis is clearly illegal.

3. Therefore Ext.P1 order passed by respondent No.1 to the extent it approves the appointment of the petitioner for the period from July 14, 2004 to September 30, 2004 on daily wage basis is quashed. Petitioner shall be entitled to get the above appointment approved on a regular basis and she would be entitled to get all consequential benefits.

Writ Petition is allowed.

A.K. Basheer
Judge.

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